

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 396 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

BIPIN @ PAPPU RAMESHBHAI JODHAWANI (SINDHI)

Versus

COMMISSIONER OF POLICE

Appearance:

MR ANIL S DAVE for Petitioner

MR SS PATEL AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 16/08/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

2. The petitioner challenges the order of preventive detention dated 30th November, 1998 made by the

Commissioner of Police, Ahmedabad City, under the powers conferred upon him under Sub-section 1 of Section 3 of the Gujarat Prevention of Anti-Social Activities Act, 1985 [hereinafter referred to as, 'the Act'].

3. The petitioner is alleged to be a 'bootlegger' within the meaning of Section 2 (b) of the Act. A prohibition offence has been registered against the petitioner on 10th May, 1998 and is pending trial. Two individuals, on assurance of anonymity, have given statements in respect of the anti-social activities of the petitioner and its adverse effect on the public tranquillity and the even tempo of life. They have particularly referred to the incidents of 3rd November, 1998 and 7th November, 1998. In both the said incidents, the petitioner is alleged to have beaten the concerned witness and used knife to cow-down the witness and to intimidate the innocent member of the public who had gathered on the spot of incident. The petitioner's activities are, therefore, believed to be prejudicial to the maintenance of public order.

4. It is submitted that the offence has been registered against the petitioner as far back as on 10th May, 1998 and the order of detention has been made on 30th November, 1998 i.e., more than six months after the date of the order. The delay has thus snapped the link between the cause of action and the order, and therefore, the subjective satisfaction recorded by the detaining authority is vitiated. It is further argued that the reports of the chemical examination of the liquor seized from the petitioner has not been considered by the detaining authority nor has it been supplied to the petitioner. The said document had been demanded by the petitioner vide his representation dated 1st January, 1999. In spite of the said demand, the report has not been furnished to the petitioner. The subjective satisfaction recorded by the detaining authority, therefore, cannot be said to have been based on comprehensive materials and is, therefore, vitiated.

5. I find no substance in either of the above referred contentions. It is apparent that even after the registration of the above referred offence, the petitioner's arrest and release on bail, he has continued his anti-social activities. The petitioner is found to be indulging in such activities as late as on 3rd November, 1998 and 7th November, 1998. In view of the continuous anti-social activities of the petitioner, even the delay in making the order of detention would not vitiate or invalid the said order. In respect of the

reports of the chemical examination, Mr. Patel, the learned AGP has relied upon the chargesheet and has submitted that the liquor alleged to have been recovered from the petitioner being bottled, sealed and labelled was not sent for chemical examination nor it is required to be sent for such examination. The liquor recovered from the petitioner having not been sent for chemical examination, the question of considering the report thereof or supplying the same to the petitioner would not arise. The subjective satisfaction recorded by the detaining authority or the order of detention, therefore, cannot be vitiated on this ground also. No other ground is urged before me.

6. Petition is dismissed. Rule is discharged.